

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

SMDL #05-001

May 23, 2005

Dear State Medicaid Director:

It has recently come to our attention that the Medicaid program in a state is paying for the cost of drugs and treatment of impotence for certain individuals who have been convicted of a sex offense. The purpose of this guidance is to remind states there are a number of options to prevent the inappropriate use of such drugs and to inform states that we believe they should restrict the coverage of such drugs in the case of individuals convicted of a sex offense.

Under the Medicaid statute, states are obligated to prevent fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients. A state can find that the use of certain drugs and the treatment of impotence for such individuals could constitute fraud, abuse, or inappropriate use. We believe that, in accordance with such provisions, the use of these drugs in the case of a sex offender is not appropriate and Medicaid should not pay for the cost of such drugs in such circumstances.

Effective immediately, states should use their drug use review program and procedures under 1927(g) of the Social Security Act and work with physicians and pharmacists to prevent inappropriate Medicaid payment for such drugs in the case of a sex offender. Failure to perform such a review and implement appropriate controls may result in sanctions.

Sincerely,

/s/

Dennis G. Smith
Director

cc:

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